

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

Baby Doe, et al.,

Plaintiffs,

v.

JOSHUA MAST et al.,

Defendants,

and

UNITED STATES SECRETARY OF STATE
ANTONY BLINKEN et al.,

Nominal Defendants.

Civil Action No. 3:22-cv-49

**UNOPPOSED MOTION TO FURTHER EXTEND NOMINAL FEDERAL
DEFENDANTS' DEADLINE TO RESPOND TO AMENDED COMPLAINT**

Nominal defendants United States Secretary of State Antony Blinken and United States Secretary of Defense General Lloyd Austin (“Federal Defendants”) hereby request a second extension of time within which to file a response to Plaintiffs’ Amended Complaint [ECF 68], up to and including January 9, 2023, in order to further consider Federal Defendants’ role in this case. Undersigned counsel for Federal Defendants has conferred with counsel for Plaintiffs, who indicates that Plaintiffs do not oppose this request. Good cause exists for the requested extension, as set forth below:

Plaintiffs’ Amended Complaint, filed October 28, 2022, names five individuals as defendants (“Individual Defendants”) and names Federal Defendants as nominal defendants. *See Am. Compl. ¶ 17.* Plaintiffs seek monetary and declaratory relief from Individual Defendants but indicate that they seek no relief from Federal Defendants in this

action. *Id.* Federal Defendants previously sought and were granted a 9-day extension of their deadline to respond to the Amended Complaint due to competing obligations of undersigned counsel. Pursuant to the Court's Order of November 10, 2022 [ECF 84], Federal Defendants' deadline to respond is currently November 23, 2022.

Federal Defendants seek additional time to fully consider their response to the Amended Complaint. Undersigned counsel has competing obligations in other cases, including an opposition to a motion for preliminary injunction due November 30, 2022; an out-of-town all-day final hearing in a sealed proceeding on December 14, 2022, which will require significant preparation; and an out-of-town preliminary injunction hearing on December 21, 2022. Federal Defendants also require additional time given the unusual situation where Federal Defendants have been named as nominal defendants, and where this case exists in the context of other matters in state court where the United States has set forth its position, and sought to intervene and remove the matter, in an attempt to ensure that its foreign policy decisions—which led it to transfer the child at issue in this case to the Government of Afghanistan in February 2020 for reunification with her next of kin—are fully effectuated.¹ Counsel for Plaintiffs does not oppose this request.

¹ Federal Defendants' request for an extension should not be viewed as deferring to the non-federal defendants' arguments that, in light of state court proceedings, this Court should abstain from consideration of the issues raised in Plaintiffs' Amended Complaint. As stated, the United States recently sought to intervene in the state court case in order to remove it to federal court, and accordingly believes that the issues that the United States identified in its Statement of Interest and other state court filings, which overlap issues raised by the declaratory relief that Plaintiffs request, raise issues appropriate for adjudication in federal court.

Accordingly, Federal Defendants respectfully request that the deadline for Defendants to file a response to Plaintiffs' Amended Complaint be extended up to and including January 9, 2023.

November 22, 2022

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

ALEXANDER K. HAAS
Director, Federal Programs Branch

ANTHONY J. COPPOLINO
Deputy Director, Federal Programs Branch

/s/ Kathryn L. Wyer
KATHRYN L. WYER
Federal Programs Branch
U.S. Department of Justice, Civil Division
1100 L Street, N.W., Room 12014
Washington, DC 20005
Tel. (202) 616-8475 / Fax (202) 616-8470
kathryn.wyer@usdoj.gov
Attorneys for Defendants